

Introduced by Senator Florez

February 7, 2007

An act to add Article 6 (commencing with Section 113600) to Chapter 11 of Part 6 Division 104 of the Health and Safety Code, relating to agriculture.

LEGISLATIVE COUNSEL'S DIGEST

SB 201, as introduced, Florez. Agriculture: leafy green vegetable crop safety.

Existing law provides that the Secretary of Food and Agriculture shall establish, by regulation, uniform standards for field crop producers, establish inspection districts within the state, and provide sampling, inspection, and certification service for field crop products within the state, as specified. Existing law also states legislative findings and declarations that the people have a primary interest in the sanitary conditions under which food crops are grown and harvested for human consumption and in the health and related sanitary conditions under which the workers are employed in the growing and harvesting of food crops.

This bill would describe various practices which shall not be engaged in by growers, handlers, shippers, or processors of leafy green vegetables including using water diverted from a creek, tributary, or stream to irrigate fields, using uncomposed, incompletely composed, or nonthermally treated manure as a fertilizer or soil amendment in fields, maintaining toilet facilities or other receptacles for human excreta in fields, using irrigation water that exceeds acceptable contamination levels, or selling, transferring, or otherwise putting into the production, distribution, and marketing chain, any leafy green vegetable that exceeds acceptable contamination levels, as specified. This bill would provide

that a violation of these provisions, or any regulation adopted by the State Department of Public Health pursuant thereto, is a misdemeanor punishable for each occurrence by a fine not exceeding five thousand dollars (\$5,000), imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, and in addition, the State Department of Public Health may impose a fine not exceeding twenty five-thousand dollars (\$25,000) per occurrence.

This bill would also require the State Department of Public Health to adopt regulations developing Hazard Analysis and Critical Control Point guidelines, and Good Agricultural Practices for growers, handlers, shippers, and processors of leafy green vegetables, as specified. This bill would also require the department to develop model documents and checklists to assist growers, handlers, shippers, and processors to comply with these provisions.

Because this bill would create new crimes and would require local officials to perform additional duties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 6 (commencing with Section 113600) is
2 added to Chapter 11 of Part 6 of Division 104 of the Health and
3 Safety Code, to read:

4
5 Article 6. Leafy Green Vegetable Crop Safety
6

7 113600. The provisions of this article are intended to apply
8 specifically to growers, handlers, shippers, and processors of leafy
9 green vegetables.

1 113600.2. For the purposes of this article, the following
2 definitions apply:

3 (a) “Grower” means any person engaged within this state in the
4 business of producing or causing to be produced leafy green
5 vegetables.

6 (b) “Handler” means any person who, as owner, agent, or broker,
7 purchases, or otherwise acquires from a grower, possession or
8 control of any leafy green vegetable for the purpose of marketing
9 it.

10 (c) “Leafy green vegetable” means, but is not limited to, iceberg
11 lettuce, romaine lettuce, green leaf lettuce, red leaf lettuce, butter
12 lettuce, baby leaf lettuce or immature lettuce or leafy greens,
13 escarole, endive, spring mix, and spinach.

14 (d) “Manure” means any substances composed primarily of
15 animal excrement, plant remains, or mixtures of those substances.

16 (e) “Processor” means any person who engages in the operation
17 of receiving, grading, coring, shredding, packing, canning,
18 fermenting, distilling, extracting, preserving, grinding, crushing,
19 processing, changing the form of any leafy green vegetable, or any
20 other activities that are performed for the purpose of preparing it
21 for market or marketing that commodity. It does not, however,
22 include a person that is engaged in manufacturing a different
23 product from any commodity which has been changed in form.

24 (f) “Shipper” means any person, other than a common carrier,
25 who is engaged within this state in transporting leafy green
26 vegetables, whether as owner, agent, or otherwise. “Shipper” does
27 not include a retailer, except a retailer who purchases or acquires
28 from, or handles or processes leafy green vegetables on behalf of,
29 any grower.

30 113600.4. Water diverted from a creek, tributary, or stream
31 shall not be used to irrigate fields in which green leafy vegetables
32 are grown.

33 113600.6. Uncomposted, incompletely composted, or
34 nonthermally treated manure may not be used as a fertilizer or soil
35 amendment in fields in which leafy green vegetables are grown.

36 113600.8. No toilet facilities or receptacle of any kind for
37 human excreta and other human wastes shall be maintained in any
38 field in which leafy green vegetables are grown, consistent with
39 Article 4 (commencing with Section 113310) of Chapter 11 of
40 Part 6 of Division 104 of the Health and Safety Code.

1 113601. No grower of leafy green vegetables shall use water
2 that exceeds acceptable contamination levels, as established by
3 regulation by the State Department of Public Health, to irrigate
4 any field in which leafy green vegetables are grown.

5 113601.2. No grower shall knowingly sell, transfer, or
6 otherwise put into the production, distribution, and marketing chain
7 that ends with the consumer, any leafy green vegetable that exceeds
8 acceptable contamination levels, as established by the Department
9 of Public Health by regulation.

10 113601.4. No handler or shipper shall knowingly handle or
11 transport any leafy green vegetable intended for human
12 consumption unless it has verified, in a manner prescribed by
13 regulations adopted by the State Department of Public Health, that
14 the leafy green vegetable was produced under water and soil
15 conditions that are within acceptable contamination levels, and
16 that the produce itself has been tested for contaminants and is
17 within acceptable level, as established by regulation.

18 113601.6. Any document or record required to be maintained
19 by any provision of, or any regulation adopted pursuant to, this
20 article shall be maintained in a manner that allows for its inspection
21 by the State Department of Public Health and county health
22 inspectors. No grower, handler, shipper, or processor of leafy green
23 vegetables shall falsify any record related to compliance with the
24 requirements of any provision of, or any regulation adopted
25 pursuant to, this article.

26 113601.8. The State Department of Public Health shall adopt
27 regulations developing Hazard Analysis and Critical Control Point
28 (HACCP) guidelines for growers of leafy green vegetables. These
29 guidelines shall require growers to develop HACCP plans which
30 shall be reviewed by the department at least every 12 months.

31 113602. The State Department of Public Health shall adopt
32 regulations requiring the implementation of Good Agricultural
33 Practices (GAP) for growing, handling, shipping, and processing
34 leafy green vegetables that provide for all of the following:

35 (a) (1) Testing by the grower of an appropriate sample of all
36 water used to irrigate fields in which leafy green vegetables are
37 grown for various contaminants, including E. coli, using specified
38 bacterial sampling procedures, once prior to the leafy green
39 vegetable growing season, bi-weekly during the growing season,
40 and once immediately prior to harvest.

1 (i) If irrigation water is supplied by a municipal water district,
2 water quality reports issued by that agency shall be obtained,
3 reviewed, and maintained by the grower on a quarterly basis.

4 (ii) If recycled water is used for irrigation, any water quality
5 report issued by the agency that supplies the water shall be
6 obtained, reviewed, and maintained by the grower. The grower
7 shall also test the water at the point of use for various contaminants,
8 including E. coli, weekly during the growing season.

9 (2) Maintenance, by growers, of records of all tests conducted,
10 and of all reports received, concerning irrigation water quality for
11 inspection by county health inspectors and agricultural
12 commissioners for a specified period of time, not less than three
13 years, as determined by the department.

14 (3) Notification of the Department of Public Health by a grower
15 if unacceptable irrigation water contamination levels are detected
16 by a test conducted by the grower or an independent tester, or
17 reported to the grower by a municipal water district or agency
18 supplying recycled water.

19 (4) Corrective action that may be taken by a grower to disinfect
20 irrigation water determined to contain unacceptable levels of
21 contamination.

22 (b) Periodic testing by the grower of an appropriate sample of
23 the soil in all fields in which leafy green vegetables are grown for
24 various contaminants, including E. coli, using specified bacterial
25 sampling procedures.

26 (1) Maintenance, by growers, of records of all soil tests
27 conducted for inspection by county health inspectors and
28 agricultural commissioners for a specified period of time, not less
29 than three years, as determined by the department.

30 (2) Notification of the department by a grower if unacceptable
31 soil contamination levels are detected.

32 (3) Corrective action that may be taken by a grower to disinfect
33 soil determined to contain unacceptable levels of contamination.

34 (c) (1) Testing by the grower of an appropriate sample of all
35 leafy green vegetables produced in each field for various
36 contaminants, including E. coli, using specified bacterial sampling
37 procedures, periodically, as is determined to be necessary by the
38 department, and immediately prior to harvest.

39 (2) Maintenance, by growers, of records of all produce tests
40 conducted for inspection by county health inspectors and

1 agricultural commissioners for a specified period of time not less
2 than three years, as determined by the department.

3 (3) Notification of the department by a grower if unacceptable
4 produce contamination levels are detected.

5 (4) Corrective action that may be taken by a grower to disinfect
6 produce determined to contain unacceptable levels of
7 contamination.

8 (5) Procedures for withholding or destroying produce determined
9 to contain unacceptable levels of contamination.

10 (d) (1) Field sanitation, including worker hygiene, and
11 appropriate placement of toilet facilities accessible to persons
12 working in fields in which leafy green vegetables are grown.

13 (2) Exclusion of toilet facilities or receptacles of any kind for
14 human excreta and other human wastes from fields in which leafy
15 green vegetables are grown.

16 (3) Corrective action and documentary procedures that to be
17 taken in the event of a toilet waste spill.

18 (e) (1) Procedures to be followed by growers, handlers, shipper,
19 and processors if the department orders a recall affecting leafy
20 green vegetables.

21 (2) Establishment of written procedures by each grower, handler,
22 shipper, and processor to be used in response to a department recall
23 affecting leafy green vegetables, which procedures shall be
24 reviewed by the grower on an annual basis and be available for
25 inspection by county health inspectors and agricultural
26 commissioners.

27 (f) Documentation of any flooding event that occurs in a field
28 in which leafy green vegetables are grown and the establishment
29 of buffer zones between flooded areas from which crops cannot
30 be harvested and harvestable leafy green vegetable crops.

31 (g) Inspection of fields and leafy green vegetable crops prior to
32 harvest to determine whether there has been any intrusion upon
33 the growing area by wild or domestic animals, specification of
34 further testing that may be required if it is determined that there
35 has been an intrusion by a wild or domestic animal, documentation
36 of the evidence of any intrusion event, and procedures for
37 establishment of a buffer zone between areas in which there has
38 been an animal intrusion from which crops cannot be harvested
39 and harvestable leafy green vegetable crops.

1 (h) Appropriate buffer zones between specific adjacent land
2 uses and fields in which leafy green vegetables are grown
3 including, but not limited to, composting operations, grazing lands,
4 septic tanks, concentrated animal feeding operations, open land,
5 and water sources.

6 (i) Proper composting practices and documentation thereof.

7 (j) Proper use of soil amendments, including testing composted
8 materials prior to their application. The department shall require
9 growers of leafy green vegetables to maintain records detailing
10 their use of soil amendments including, but not limited to, the date
11 the amendment was applied, the total quantity of material used,
12 how the material was applied, the source of the soil amendment,
13 the composition of the amendment including the ratio of its
14 components, and whether the amendment was tested for pathogens.

15 (k) Maintenance of documents and records related to compliance
16 with the requirements of the regulations in a manner that allows
17 for inspection by county health inspectors and agricultural
18 commissioners for a specified period of time, not less than three
19 years, as determined by the department.

20 113602.2. The State Department of Public Health shall develop
21 model documents and checklists to assist growers, handlers,
22 shippers, and processors of leafy green vegetables to comply with
23 the provisions of, and regulations adopted pursuant to, this article.
24 The model documents and checklists developed by the department
25 shall provide for all of the following:

26 (a) Communication of contact information between growers,
27 handlers, shippers, and processors who regularly conduct business,
28 including, but not limited to, identification of food safety
29 supervisors and recall coordination team contacts, and a description
30 of the food safety and trace-back procedures used by each field or
31 facility.

32 (b) Daily assessment of field or facility sanitation, including,
33 but not limited to, whether toilet facilities are properly maintained,
34 proper hygiene is practiced by workers, pest checks are performed,
35 and packaging materials and transportation containers are clean.

36 (c) Weekly, monthly, and quarterly assessment of a field or
37 facility, including, but not limited to, whether toilet facilities are
38 properly maintained, sanitation and maintenance of facilities,
39 refrigeration units, and water sources, whether the need for proper
40 hygiene and safety is regularly communicated to workers, whether

1 pesticide use records are maintained and submitted the County
2 Agricultural Commissioner's office, and whether water used to
3 irrigate fields is tested for various contaminants, as required by
4 regulation.

5 (d) Annual assessments of a field or facility, including, but not
6 limited to, sufficiency of the field or facility's food safety program,
7 whether a food safety supervisor has been designated, whether
8 water used to irrigate fields is tested for various contaminants, as
9 required by regulation, whether soil in all fields in which leafy
10 green vegetables are grown is tested for various contaminants, as
11 required by regulation, whether pesticide use permits have been
12 obtained, whether written policies and procedures exist for handling
13 packaging materials and transportation containers, and whether
14 written training programs for workers exist.

15 (e) Establishment of a written training programs for workers
16 addressing topics including, but not limited to, food safety,
17 sanitation, worker hygiene, pesticide safety, good agricultural
18 practices, traceback procedures, and procedures be used in response
19 to, and to initiate a recall, and subsequent documentation of
20 completion of the programs by workers.

21 (f) Documentation of soil amendment use, as required by
22 regulation, including, but not limited to, the date the amendment
23 was applied, the total quantity of material used, how the material
24 was applied, the source of the soil amendment, the composition
25 of the amendment including the ratio of its components, and
26 whether, and if so, how the amendment was tested for pathogens.

27 (g) Documentation of composting procedures including, but not
28 limited to, the ratio of the components composted, the temperatures
29 at which it was maintained, and whether the compost was tested
30 for pathogens.

31 (h) Documentation of testing by the grower of water used to
32 irrigate fields, as required by regulation, including, but not limited
33 to, the source of irrigation water, whether drip, sprinkler, or
34 overhead irrigation is used, whether a filtration system used, and
35 if so, a description thereof, an assessment of potential
36 contamination risks, corrective action to disinfect any water
37 supplies, communication with water suppliers, and documentation
38 of any independent water tests conducted.

39 (i) Documentation of pesticide use including, but not limited
40 to, identification of the treated area, the time and date the pesticide

1 was applied, whether field entry was restricted, and if so, when,
2 the name of the pesticide product and its registration number, the
3 composition of the pesticide, and documentation of completion of
4 pesticide safety training by workers.

5 (j) Documentation of harvesting tool cleaning, including, but
6 not limited to, whether tools are kept clean and are being
7 maintained properly, whether there is a regular tool inspection and
8 repair program, whether stations are maintained for cleaning and
9 sanitizing tools periodically throughout the day, and whether clean,
10 sanitary gloves are provided for workers.

11 (k) Documentation of measures to ensure the security of food
12 products, packaging materials, and transportation containers,
13 including, but not limited to, whether there is controlled access to
14 the field or facility, whether there is a visitor policy in place,
15 whether all water sources are secure, whether all soil amendments
16 and pesticides are securely stored, whether an inventory of soil
17 amendments and pesticides is maintained, how workers are
18 screened before hiring, how workers are identified upon arrival at
19 the field or facility, and whether employees are trained to report
20 suspicious activities or suspected breaches of food security
21 practices.

22 113609. (a) A violation of any provision of, or any regulation
23 adopted pursuant to, this article is misdemeanor punishable for
24 each occurrence by a fine not exceeding five thousand dollars
25 (\$5,000), imprisonment in a county jail not exceeding one year,
26 or by both that fine and imprisonment. In addition, the State
27 Department of Public Health may impose a fine not exceeding
28 twenty-five thousand dollars (\$25,000) per occurrence.

29 (b) Nothing in this section is intended to or shall be construed
30 to abridge the right to bring a private cause of action for relief or
31 damages against a grower, handler, shipper, or processor based on
32 failure to meet the standards established by any provision of, or
33 any regulation adopted pursuant to, this article.

34 SEC. 2. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution for certain
36 costs that may be incurred by a local agency or school district
37 because, in that regard, this act creates a new crime or infraction,
38 eliminates a crime or infraction, or changes the penalty for a crime
39 or infraction, within the meaning of Section 17556 of the
40 Government Code, or changes the definition of a crime within the

1 meaning of Section 6 of Article XIII B of the California
2 Constitution.

3 However, if the Commission on State Mandates determines that
4 this act contains other costs mandated by the state, reimbursement
5 to local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

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